



Senate

General Assembly

File No. 534

February Session, 2008

Substitute Senate Bill No. 208

Senate, April 9, 2008

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PROHIBITING PENALTIES FOR PREPAYMENT OF CERTAIN MORTGAGE LOANS AND AUTHORIZING BONDS OF THE STATE FOR THE EMERGENCY MORTGAGE ASSISTANCE PAYMENT PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2008*) (a) As used in this
2 section:

3 (1) "Subprime" means:

4 (A) In the case of an adjustable rate loan secured by a first lien on a
5 dwelling, a loan for which the APR is greater than two percentage
6 points above the yield on United States Treasury securities having
7 comparable periods of maturity as of the fifteenth day of the preceding
8 month if the rate is set between the first and the fourteenth day of the
9 month, and as of the fifteenth day of the current month if the rate is set
10 on or after the fifteenth day.

11 (B) For all other loans secured by a first lien on a dwelling, a loan for
12 which the APR is greater than three percentage points above the yield

13 on United States Treasury securities having comparable periods of
14 maturity as of the fifteenth day of the preceding month if the rate is set
15 between the first and the fourteenth day of the month, and as of the
16 fifteenth day of the current month if the rate is set on or after the
17 fifteenth day.

18 (C) For loans secured by a subordinate lien on a dwelling, a loan for
19 which the APR is greater than five percentage points above the yield
20 on United States Treasury securities having comparable periods of
21 maturity as of the fifteenth day of the preceding month if the rate is set
22 between the first and the fourteenth day of the month, and as of the
23 fifteenth day of the current month if the rate is set on or after the
24 fifteenth day; and

25 (2) "Nontraditional mortgage" has the same meaning as set forth in
26 the "Interagency Guidance on Nontraditional Mortgage Product
27 Risks", 71 Federal Register 58609 (Oct. 4, 2006), as amended from time
28 to time.

29 (b) No prepayment fee or penalty may be charged or collected
30 under the terms of a subprime or nontraditional mortgage loan when
31 the mortgagee requires that payments be accelerated in a mortgage
32 refinance, sale of the real property mortgaged or foreclosure action.
33 Any prepayment fee, penalty or charge in violation of this section shall
34 be void and unenforceable.

35 Sec. 2. (*Effective July 1, 2008*) (a) For the purposes described in
36 subsection (b) of this section, the State Bond Commission shall have
37 the power, from time to time, to authorize the issuance of bonds of the
38 state in one or more series and in principal amounts not exceeding in
39 the aggregate fifty million dollars.

40 (b) The proceeds of the sale of said bonds, to the extent of the
41 amount stated in subsection (a) of this section, shall be used by the
42 Connecticut Housing Finance Authority for the purpose of
43 recapitalization of the emergency mortgage assistance payment
44 program established pursuant to sections 8-265cc to 8-265kk, inclusive,

45 of the general statutes or the 2008 supplement to the general statutes.

46 (c) All provisions of section 3-20 of the general statutes, or the
 47 exercise of any right or power granted thereby, which are not
 48 inconsistent with the provisions of this section are hereby adopted and
 49 shall apply to all bonds authorized by the State Bond Commission
 50 pursuant to this section, and temporary notes in anticipation of the
 51 money to be derived from the sale of any such bonds so authorized
 52 may be issued in accordance with said section 3-20 and from time to
 53 time renewed. Such bonds shall mature at such time or times not
 54 exceeding twenty years from their respective dates as may be provided
 55 in or pursuant to the resolution or resolutions of the State Bond
 56 Commission authorizing such bonds. None of said bonds shall be
 57 authorized except upon a finding by the State Bond Commission that
 58 there has been filed with it a request for such authorization which is
 59 signed by or on behalf of the Secretary of the Office of Policy and
 60 Management and states such terms and conditions as said commission,
 61 in its discretion, may require. Said bonds issued pursuant to this
 62 section shall be general obligations of the state and the full faith and
 63 credit of the state of Connecticut are pledged for the payment of the
 64 principal of and interest on said bonds as the same become due, and
 65 accordingly and as part of the contract of the state with the holders of
 66 said bonds, appropriation of all amounts necessary for punctual
 67 payment of such principal and interest is hereby made, and the State
 68 Treasurer shall pay such principal and interest as the same become
 69 due.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2008	New section
Sec. 2	July 1, 2008	New section

PD Joint Favorable Subst. C/R

JUD

JUD Joint Favorable

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Treasurer, Debt Serv.	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill authorizes \$50 million in General Obligation (GO) bonds to recapitalize the Emergency Mortgage Assistance Payment Program, to be administered by the Connecticut Housing Finance Authority (CHFA). The total General Fund debt service cost for principal and interest payments on this amount over 20 years assuming a 5.0% interest rate, is \$76.3 million. The first year that the state will experience costs associated with the bonds depends on when they are allocated through the State Bond Commission and when the funds are expended.

Background

CHFA administered the Emergency Mortgage Assistance Payment Program in 1994 and 1995 at a cost of \$420,000 associated with temporary staff. CGS 8-265dd permits any necessary and related administrative and operational expenses incurred by CHFA, in implementing the program, to be paid from available program funds.

The Out Years

The ongoing fiscal impact for the \$50 million in GO bonds is the General Fund debt service payments over 20 years.

OLR Bill Analysis**sSB 208*****AN ACT PROHIBITING PENALTIES FOR PREPAYMENT OF CERTAIN MORTGAGE LOANS AND AUTHORIZING BONDS OF THE STATE FOR THE EMERGENCY MORTGAGE ASSISTANCE PAYMENT PROGRAM.*****SUMMARY:**

This bill prohibits lenders from charging or collecting a prepayment fee or penalty on a subprime or non-traditional mortgage under certain circumstances. The circumstances are when the mortgagee (lender) requires that payments be accelerated in a mortgage refinance, sale of the mortgaged property, or foreclosure action. Any prepayment fee, penalty, or charge that violates these provisions is void and unenforceable. Current law, limits when prepayment penalties can be exercised for "high cost loans" (those with interest rates more than 8% or 10% above the interest rate in United States Treasury securities). It also limits the amount of these penalties (CGS § 36a-746c).

The bill authorizes \$50 million in bonding for the Connecticut Housing Finance Authority, to be used to recapitalize the emergency mortgage assistance payment program.

EFFECTIVE DATE: July 1, 2008 for the bonding, October 1, 2008 for the pre-payment penalty prohibition.

AFFECTED MORTGAGES

Under the bill, a subprime mortgage is one that meets one of the following criteria:

1. for an adjustable rate loan secured by a first lien on a dwelling, a loan for which the annual percentage rate (APR) is more than two percentage points above the yield on United States Treasury securities having comparable periods of maturity as of the 15th

day of the preceding month if the rate is set between the 1st and the 14th day of the month, and as of the 15th day of the current month if the rate is set on or after the 15th day;

2. for all other loans secured by a first lien on a dwelling, a loan for which the APR is greater than three percentage points above the yield on United States Treasury securities having comparable periods of maturity as described above; or
3. for loans secured by a subordinate lien on a dwelling, a loan for which the APR is greater than five percentage points above the yield on United States Treasury securities having comparable periods of maturity as described above.

Under the bill, a nontraditional mortgage is defined in the “Interagency Guidance on Nontraditional Mortgage Product Risks”, 71 *Federal Register* 58609 (October 4, 2006), as amended from time to time the definition includes “interest only” mortgages and “payment option” adjustable rate mortgages..

BACKGROUND

Related Bill

sHB 5577, reported by the Banks Committee, creates three mortgage assistance programs and establishes a 10-member mortgage committee to develop standards for and procedures to implement them. The programs must be funded by state bonding and loan repayments under the programs. It prohibits certain provisions in a nonprime loan, as defined by the bill, such as prepayment penalties and interest rate increases after default.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute Change of Reference
Yea 14 Nay 6 (03/12/2008)

Judiciary Committee

Joint Favorable

Yea 29 Nay 14 (03/24/2008)